

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

WILLIAM ROSHINSKY,

Plaintiff,

-v-

DECISION AND ORDER
06-CV-6340 CJS

DAVID P. REYNOLDS, et al.,

Defendants.

This is an action pursuant to the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1001 *et seq.*, in which the plaintiff, proceeding pro se, alleges that he is being denied his pension. On March 5, 2007, plaintiff filed an application for injunctive relief [#32], in which he alleges that Christopher F. Downes (“Downes”), the attorney for defendants Taxicab Industry Pension Fund and Gary Hahn in this action, is “muddying the waters.” Plaintiff requests the Court to issue an order, directing Downes to “dispense with further communications to [him],” and to “refrain from pursuing vengeance.”

The standard to be applied when considering an application for a preliminary injunction is well settled:

In most cases, a party seeking to obtain a preliminary injunction must establish that it will suffer irreparable harm in the absence of an injunction and demonstrate either (1) a likelihood of success on the merits or (2) sufficiently serious questions going to the merits to make them a fair ground for litigation and a balance of the hardships tipping decidedly in the movant's favor.

Jolly v. Coughlin, 76 F.3d 468, 473 (2d Cir.1996) (citations and internal quotation marks omitted). Moreover,

[a]n evidentiary hearing is not required when the relevant facts either are not in dispute or have been clearly demonstrated at prior stages of the case, or when the disputed facts are amenable to complete resolution on a paper record. However, the motion should not be resolved on the basis of affidavits which evince disputed issues of fact.

Id. (Citations and internal quotation marks omitted).

Here, plaintiff clearly has not demonstrated that he is entitled to the remedy of injunctive relief. In fact, even construing plaintiff's submission liberally to raise the strongest argument that it suggests, it is still unclear what he is complaining about. Accordingly, the application [#32] is denied.

SO ORDERED.

Dated: March 8, 2007
Rochester, New York

/s/ Charles J. Siragusa
CHARLES J. SIRAGUSA
United States District Judge